

LIMITED OFFICIAL USE

EXCISE

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F760002-0264

DEPARTMENT OF STATE

Memorandum of Conversation

703
DATE: 9/17/73
(typed)

SUBJECT: Bunker Hunt Expropriation

PARTICIPANTS: Allah B. Conant, Attorney for
Bunker Hunt Petroleum Company
J. Dapray Muir, Assistant Legal Adviser
Stephen M. Schwebel, Counselor on
International Law

On September 13, 1973, Mr. Allah Conant, attorney for
Bunker Hunt Petroleum Company called on Mr. Muir and
Mr. Schwebel to discuss recent developments in connection
with its litigation against Sarir crude.

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liberty

B4

cc: EB, L, EB/ORTZ/7SE, Q7/K

L/EB:JDMuir:eg

(Drafting Office and Officer)

FORM DS-1254
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LIMITED OFFICIAL USE

DEPARTMENT OF STATE A/CDC/MR.

REVIEWED BY *TH. KINSWORTH* DATE 12/11/8

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A. FOR EXEMPTIONS

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Noting that if arbitration were requested, the arbitrator would be appointed by the ICJ President, Mr. Conant asked what we knew about Mr. Lachs, the present incumbent.



(BP's arbitrator had been appointed by Mr. Lachs' predecessor.) Mr. Conant expressed concern about what kind of arbitrator he might appoint, but added that the BP arbitration was expected to be finalized in the next two weeks, and should influence a Bunker Hunt decision. He would be seeing representatives of BP in London next week, and agreed to seek to obtain for the Department of State a copy of the BP arbitration award as soon as it was available.

Mr. Conant then discussed Bunker Hunt's litigation against purchasers of Sarir crude. In Galveston, copies of Coastal States' bills of lading, refining contracts, and assignments had been discovered through court proceedings. Thereafter, the case had been transferred to the Federal District Court, although the proper jurisdiction remained in question.

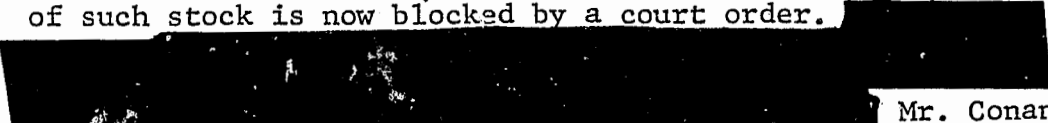
He had also been successful in attaching the cargo of the M.S. Hilda when it docked in Philadelphia. Originally bound for Boston, Coastal States had been unable to find purchasers. Texaco broke off negotiations in the face of Bunker Hunt's representative, and the cargo was delivered to a Philadelphia firm specializing in contested cargoes. It was released by the Court subject to a \$1,250,000 bond.



BY

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Discovery also indicated that Coastal States appears to have assigned all of its rights in Libyan crude to a Swiss company which in turn had sold such product to Romania. The last three ships were believed to have carried Sarir crude to Constanta. The Swiss company is headed by Coastal States' European agent, and its stock has been assigned to Coastal States as security. Release of such stock is now blocked by a court order.

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Mr. Conant indicated concern that a successful verdict in the Texas suit would not necessarily affect Bunker Hunt's rights to crude which does not enter the United States, but is delivered abroad by Coastal States.

 B4

Mr. Conant indicated information as to ship sailings was currently received from UK authorities in Malta. He inquired what help the USG had determined it might give Bunker Hunt in this regard. While such information would help in tracing the shipments from Tabruk to the refinery, tracing shipments from there was more difficult. He indicated Customs was unwilling to turn over forms which indicated the source of such shipments.

He then noted that Coastal States had raised the Act of State defense in its answer, and indicated he would be seeking a "Bernstein letter". Such a letter indicates that there are no foreign policy objections to a court's review of the legality of a sovereign act of a foreign state. He acknowledged that five justices in the First National City Bank case had indicated such views were

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no longer relevant, but he pointed out that these statements were all contained in dissenting opinions and the immateriality of the Department's views were therefore not definitively established. I pointed out that we might be more amenable to such a request if the lower court were to rule against Bunker Hunt on Act of State grounds, since the Department was not anxious to reassert its role in private litigation.

CC: EB - Mr. Armstrong
L - Mr. Feldman
L - Mr. Schwebel
EB/ORF/FSE - Mr. Bennsky
AF/N - Mr. Blaker

RS/R:

Please file the attached. The required copies have been made and circulated.

L/EB

L/EB:JDMuir:eg
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